IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 8060 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DILIPBHAI NATHABHAI POPAT

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 8060 of 2002

MR SV PARMAR for Petitioner No. 1

MR BD DESAI A.P.P. for Respondent No. 1

MR MM TIRMIZI for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 03/12/2003

ORAL JUDGEMENT

Rule. Mr.B.D Desai waives service of rule on

behalf of respondent no.1 - State.

1.1. This petition has been filed under the provisions of Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of the proceedings of Criminal Case No. 78 of 2002, pending on the file of learned Judicial Magistrate, First Class, at Surat.

2. On going through the record of the petition, it appears that the present applicant was prosecuted by opponent no.2 for the alleged commission of offences punishable under Sections 453, 454, 379 and 380 of the Indian Penal Code. The said complaint appears to have been filed on account of some monetary dispute that had arisen between the parties. It also appears that the present applicant was required to pay some amount to opponent no.2. However, certain allegations which have been duly incorporated in the complaint were levelled against the present applicant.

3. This Court (Coram : R.P. Dholakia, J.) vide order dated 25th September, 2003, directed the applicant to pay Rs.One Lakh by way of Demand Draft initially, which was duly paid by the applicant to opponent no.2 as can be seen from the subsequent order recorded on 16th October, 2003.

4. Today, learned advocate for the applicant Mr.Parmar hands over the Demand Draft of Rs.50,000=00 (Rs.Fifty Thousand Only) to Mr.Tirmizi learned advocate appearing for opponent no.2, which should satisfy the disputed monetary benefits prevailing between the parties. Since it appears that the allegations had no substance as such and they had been made against the applicant with the purpose of requiring the settlement which would amount to committing of abuse of process of law, this Court is required to invoke its inherent powers under Section 482 of the Criminal Procedure Code, to quash the proceedings of Criminal Case No. 78 of 2002 and it is hereby ordered that proceedings of Criminal Case No. 78 of 2002, pending on the file of learned Judicial Magistrate, First Class at Surat be quashed. The application is, therefore, allowed. Rule is made absolute.

[AKSHAY H. MEHTA, J.]

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